



NATURAL RESOURCES DEFENSE COUNCIL



Pacific  
Institute

**SAN PEDRO  
AND PENINSULA  
HOMEOWNER'S  
COALITION**

**WEST OAKLAND  
ENVIRONMENTAL  
INDICATORS  
PROJECT**



**COALITION  
FOR A SAFE  
ENVIRONMENT**

*Via Electronic Mail and U.S. Mail*

January 10, 2006

Sunne Wright McPeak, Secretary  
California Business, Transportation & Housing Agency  
980 9th Street, Suite 2450  
Sacramento, CA 95814

Alan C. Lloyd, PhD., Secretary  
California Environmental Protection Agency  
1001 "T" Street  
Sacramento, CA 95814

**Re: Phase II Progress Report: Draft Framework for Action**

Dear Secretaries McPeak and Lloyd:

On behalf of the undersigned groups, we write to comment on the draft framework for action for the goods movement action plan. Initially, we express our appreciation for the considerable efforts of those in the Administration in overseeing this process and putting together this framework. With that said, we wish to express serious concern that so many of our critical comments and requests have been left out of this framework for action. For this reason, we request that BT&H and Cal EPA pause the process and include our suggestions, as outlined below, before releasing any recommendations, whether preliminary or otherwise.

**PART 1: GENERAL COMMENTS ON THE DRAFT FRAMEWORK**

**I. The Plan Still Fails To Mention or Consider the Health Risks Associated with the Goods Movement System.**

We cannot support a framework for action that does not mention the impacts on health associated with the goods movement system at its current levels. To further compound

this omission is the fact that the framework also does not mention the projected health impacts at future levels when trade has tripled or quadrupled as proposed by the Governor.

A framework for action must include specific and measurable public health and emissions targets for the goods movement system. The plan has not provided a benchmark for which the Governor or the public can measure increasing the throughput in California, either in terms of lost lives or financial health costs, of the current goods movement system or expansion. While we recognize that some of this information is contained in the separate draft emission reduction plan, that is not enough. First, the Governor and others are likely to focus solely on this report (particularly given its length) and not on extraneous reports to which it refers. Second, and more importantly, as we have advocated from the beginning, environmental, public health and community impacts must be a central focus in the discussion of whether and how much to expand. By leaving the entire discussion of health impacts in a separate report, the Administration is effectively divorcing these critical issues from the discussion.

Excluding this vital information also renders parts of the report misleading. For example, on page II-3, the report describes the actions that are already underway to control pollution from the goods movement system. While we support every one of these actions, without a discussion and context of the existing unacceptable health risks in affected communities, it appears as though the problem is already being solved. We cannot support any plan, whether interim or not, that does not incorporate environmental, public health and community impacts as a central focus. Given how vocal we have been on this issue, this should not come as a surprise.

*Recommendation: Cal/EPA and BT&H should include in the framework for action and the final goods movement action plan (1) all relevant health impacts, including costs associated with the health impacts, associated with the current levels of goods movement activity and the increases that will result when trade is tripled or quadrupled and (2) specific and measurable public health and emissions targets for the goods movement system..*

## **II. Specific Projects Should Not Be Listed.**

One of the most pervasive flaws throughout this process has been the inclusion of a list of priority projects. First, this list preceded the creation of criteria and metrics. Thus, the “priority projects” have never been measured against the criteria and metrics that *still are being developed* by this group. We have continually asserted this flaw in this process. Since the criteria and principles have not been finalized, the committee has not discussed any of the projects in the context of the finalized principles and criteria—the major function for which the task force was formed. Thus, it creates a perception that the criteria and metrics created for the infrastructure projects will merely serve as post hoc rationalizations for decisions that BT&H and Cal/EPA have already made.

In addition, many of these infrastructure projects are extremely controversial and still in the beginning stages of the environmental review process. By placing them on a list, we are concerned that the Administration is giving these projects (and the project proponents) greater momentum and a free ride. This will make it extremely difficult for local government and communities to affect these projects and will remove local control and decision making, where they belong. For example, there is a debate in Los Angeles and Long Beach over a proposal for a new near-dock railyard and another proposal for expansion of an existing railyard, located in close proximity to several schools and a disproportionately impacted community. By placing those specific projects on a list, rather than identifying a more general need for increased rail in this corridor or region or the value of on-dock rail in reducing impacts, the state is essentially blessing those particular near-dock railyard projects in those particular locations with these particular elements. This prioritization hinders the state's ability to examine the alternatives to these proposed projects, thus stifling creative solutions to the state's goods movement obstacles. It will also, ironically, take away the state's significant leverage to impose environmental, public health or community improvement measures. Right now, the state is in a good position to require these types of conditions, as the project proponents advance their proposals. If these projects are on a short list of priorities, the state will lose this important advantage.

We propose, instead, that the framework for action and the final plan identify more general priority needs, rather than specific projects. The framework has failed thus far to present an objective assessment of the needs system-wide such that comparisons can be made among the various corridors or segments of the system. Different segments of the system may have different investment needs, and so the criteria may be weighted differently in accordance. Consequently, projects would be of different value depending on their contribution to the whole. This more logical and system-wide conceptual starting point will better enable the Administration to reach its goal of analyzing infrastructure needs throughout the state and prioritizing investment opportunities, while avoiding the considerable problems explained above. This is an approach argued for in the Framework document itself (p. III-1). In addition, this approach will go a long way towards remedying the polarization of integrating work group and clear the way for more fruitful meetings in the next part of the process.

*Recommendation: The framework should exclude all references to particular projects, and instead, refer to general needs to improve the current goods movement system*

### **III. The Preliminary Action Recommendations Do Not Reflect the Committee's Views.**

As mentioned in the previous section, including a project list in the framework for action is inappropriate before establishing the criteria used to weigh the merits of proposed projects. This list of projects does not reflect our input or environmental, public health, or community considerations. It is totally incorrect to present these projects as "recommendations" (p. I-4 and section I-4), since these are not the "recommendations",

preliminary or otherwise, of the task force or the agencies. Alternatives must be weighed against current project proposals before priorities or recommendations can be chosen, and the process must account for this significant step. The report itself recognizes that “consistent with defined principles, a series of evaluation criteria are established to judge the merits of prospective projects or actions.” That has clearly not yet happened. It is therefore premature to have any list of actions.

*Recommendation: The report should not include any list of “recommendations” unless and until the task force establishes final principles and criteria and considers all alternatives.*

#### **IV. The Framework Consistently States a Goal for Improvement of the Environment and Public Health, Yet Does Not Commit to a Plan to Achieve this Goal.**

While the plan consistently mentions “simultaneous and continuous” improvements, we are unable to find any place in the framework for action that ensures improvement of the environment and public health. We recognize that CARB is working on the separate emission reduction plan, which, hopefully, will ultimately ensure that we reduce air pollution and public health impacts from current levels. However, that plan is far from being finalized and as we have stated all along, that plan to achieve the governor’s clean air goals must be finalized *before* a plan for infrastructure expansion is put in place. A system wide view of public health and environmental conditions and solutions is key to setting investment priorities from among the various elements of the system.

In addition, as we have also raised before, it is our position that the cost to eliminate public health, environmental and community impacts for ongoing expansion projects must be included in the total price for those projects and funded as a single cost. This important proposal, which would be a real step toward “simultaneous and continuous” improvement is not reflected in the current draft framework. Given the tremendous estimated costs of mitigation in the billions for air pollution impacts alone (*see* Report to Mayor Hahn and Councilwoman Hahn by the No Net Increase Task Force at ES-5 (total costs ranging between \$11.6 billion and \$15.7 billion for control measures at the port of Los Angeles *alone* just to keep pollution at current levels); *see also* California ARB, *Draft Emission Reduction Plan for Ports and International Goods Movement in California*, at IV-7 and IV-8 (\$3 to \$6 billion to mitigate environmental costs from 2005 to 2020), there must be a mechanism in place to ensure that adequate funding is consistently available as each infrastructure project goes forward, and that funding must be substantial.

Relatedly, one criterion for infrastructure projects should be that the environmental mitigation plan is in place before a project is undertaken.

We were pleased to see the Governor recognize in his state of the state the need for significant investments to improve air quality. Much more is needed to keep pollution at

current levels, let alone to meet the Governor's campaign pledge of cutting California air pollution in half. Accordingly, we again propose that as each project is funded, the full cost of mitigation for that project is added to the total cost and the total cost is funded together. We also ask that a steering committee be established with representation from ARB, air districts, environmental groups, and community members to determine how this money is spent for each individual project.

*Recommendation: The framework must include a plan with significant details about how reductions in emissions will be had. In addition, it is imperative that the framework state that costs of environmental, public health, and community impact mitigation must be folded into the financing of every project chosen.*

## **PART 2: COMMENTS ON SPECIFIC SECTIONS OF THE DRAFT FRAMEWORK**

### **I. The Executive Summary Makes False Inferences, Which Will Confuse Readers of This Report.**

The executive summary implies (I-1) that the only way for the state to improve the environmental, public health, and community conditions along trade corridors and by ports and railyards is by expanding that system. Every single environmental and community member of the task force has continually opposed that view, as it simply does not comport with reality. To triple trade and the goods movement system is to, in turn, greatly increase the already-unacceptable level of harmful impacts to communities adjacent to the goods movement corridors, period. There is no credible debate on this issue.

In addition, the recent elasticity study prepared for SCAG, for example, demonstrates that currently the ports of LA and Long Beach could assess substantial container fees to be used to reduce impacts – without further expansion and without significant diversion. This clearly demonstrates that the State could improve the health and welfare of California residents *without* further expansion; it is merely *choosing* to increase trade, infrastructure, and impacts for other reasons. California already hosts 3 of the largest ports in the nation and handles 40% of the nation's trade, and that status comes with a significant community and human health price tag. We feel it is irresponsible to lead the public to believe that expansion of the problem is necessary for the state to solve the current crisis. Accordingly, we ask that this discussion be removed from the framework. We would like to echo these same comments for the introduction on pages II-1 to II-3.

*Recommendation: The framework should take out the inference that expansion of the goods movement system is the only way to improve the environmental, public health, and community conditions along trade corridors.*

**II. The Preliminary Recommendations for “Operational Improvements” and “Infrastructure Projects” on Page I-4 Do Not Really Constitute the Recommendations of the Task Force, and Many of These Recommendations are of Significant Concern.**

Initially, we again note that these are not the “recommendations” of anyone, and should not be identified in this manner. From what we can discern, these “recommendations” are merely proposals set forth by project proponents. We also have concerns about many of the specific actions listed.

Under immediate actions, several of those listed, including, for example, short-sea shipping and extended port hours may have considerable harmful environmental, public health and community impacts and are in need of significant evaluation before included on a list of recommendations (whether final or otherwise). In addition, we are dismayed to find that these, among other actions, such as the proposed Union Pacific near-dock rail expansion were proposed *for the very first time* in this draft interim report. Various actions have been placed in this chart without truly outlining and fully understanding the impacts that these actions could have on California and more specifically on the communities adjacent to the goods movement corridors. Again, we understood that this was the very purpose of the task force.

Of particular concern to us is the fact that “(e)xplore a market-based, integrated emission trading program” is considered an “Immediate Action.” First, we are troubled by ARB’s inclusion of this controversial industry proposed trading program as an appendix to its emissions reduction plan. ARB did not include any other suggestions provided by other stakeholders. Why, for example, did ARB not choose to include Senator Lowenthal’s container fee proposal as an appendix instead as a fair and equitable way to pay for the Plan. User fees provide a reasonable and solid solution to resolving the pollution problem. We believe that the polluter should pay to reduce pollution.

In addition, trading programs, such as the one proposed have serious environmental justice implications. In particular, this proposal is not just confined to goods movement sources of pollution, but stationary sources as well. Most importantly, the goods movement industry has long remained unregulated, has not chosen voluntarily to reduce its impacts on nearby communities, and has externalized health and environmental costs, placing these costs instead on local communities. This is precisely why communities throughout the state currently face a public health crisis. We must aggressively attack every source of pollution in the goods movement system; we no longer have the luxury to pick and choose those measures that make better financial sense for industries that have profited by harming our health and environment. By its nature, this trading program would allow a shipping company to forgo essential control measures. We cannot reiterate strongly enough our opposition to the inclusion of this in the list of actions. We plan to comment more specifically on this proposal when we submit comments on CARB’s draft emission reduction plan.

As for the remainder of the “preliminary action recommendations”, we refer back to our comments above that the vast majority of these are extremely controversial, and a wiser approach would be to identify general needs, rather than specific projects.

*Recommendation: The term “recommendations” should be taken out of this section. Further, the trading program should be taken out of “immediate recommendations” as well as excluded from the list. No measure should be on a list until its full environmental and other ramifications are studied, discussed, and understood.*

### **III. Preliminary Environmental Recommendations Should Include The Matrix of No Net Increase Measures.**

We are resubmitting, along with this comment letter, a matrix we prepared that includes environmental recommendations with schedules for implementation that we would like to see included in this framework for action. This matrix is derived from the Port of Los Angeles’ No Net Increase Plan, which was developed by a diverse group of stakeholders over a nine month period. We recognize that we submitted this matrix only days before the draft framework was released, and anticipate that it will be included in the next draft. In addition, measures recommended in the Tier II CAC report on the I-710 Freeway expansion project, discussed numerous times at IWG and Community Impact Work Group meetings should be included in the matrix, as should recommendations from the Modesta Avila Coalition Report “A View from Our Window” (submitted to Catherine Witherspoon).

*Recommendation: The No Net Increase measures should be included in the preliminary environmental recommendations, as reflected on our matrix. Measures recommended in the Tier II CAC report on the 710 Freeway should be included in the matrix. In addition, recommendations from the Modesta Avila Coalition Report “A View from Our Window” should be incorporated into the matrix.*

### **IV. The Principles for Implementation, Criteria for Selection of Projects and Actions, and Metrics for Evaluation after Implementation Need to Better Reflect our Positions and Concerns.**

#### *(A) Principles*

Because many of our key concerns have not been included in the principles section, we are resubmitting our previous comment letter on this issue. In addition to the comments incorporated from our last letter on this issue, we do not agree with principle 9. As we have commented on several occasions, we are unclear why there needs to be metrics for the Public Health and Environmental Mitigation section of the Goods Movement Action Plan. The appropriate path for evaluating a comprehensive mitigation plan is to set goals (many of which have already been set) and evaluate compliance with these goals. While it is appropriate to set individual milestones throughout the process, we believe a metrics system as proposed will not effectively provide a good tool to evaluate the mitigation

measures under the plan. Thus, we are concerned that the ARB, BT&H, and Cal-EPA's insistence on using a metrics-based system indicates a reluctance to commit to concrete goals and milestones. In any event, this should certainly not be a guiding principle.

*(B) Criteria*

*(i) Infrastructure*

We are deeply troubled that, while a promise was made to include the reduction of environmental and public health impacts as a criterion for infrastructure projects, it is not listed in the draft framework. At a minimum, proposed projects should be meeting a criterion that they will not result in increased air pollution for a given community or the regionally and that they will result in a long-term net benefit to air quality. This criterion is fundamental to meeting the promise of the Administration and the agencies to consider environmental and public health concerns as equal priorities with expansion. Relatedly, this criterion should specify that an environmental mitigation plan is in place before the project is undertaken. In addition, while community impacts is on the list, the description is not meaningful and needs to be expanded.

*(ii) Environmental/public health*

We are resubmitting our prior comments on criteria and metrics, with the hope that these comments will be incorporated in the next draft. We still strongly assert that cost-effectiveness should not be a criterion for selection of environmental and public health mitigation. In addition, we are very concerned about the phrase "secures authority for implementation." As we have previously commented, it is imperative that the state, ARB, the legislature, local districts and governments, assert their full authority, given the magnitude of this problem. Moreover, the ports and others must play a role in reducing pollution by acting in their authority as landlords to impose significant mitigation measures. This should not be a limiting criterion.

*(C) Metrics*

We also resubmit, along with this comment letter, our comments on metrics. None of our key comments on metrics have been taken into account.

*(D) Benchmarks*

We are concerned that, like so many aspects of this draft framework, this is the first time that the committee has seen the "recommended" Benchmarks for Evaluation after Implementation. This once again highlights the fact that this process has been much too rushed. In addition, we are not altogether clear on the difference between goals, metrics and benchmarks. This must be clarified in the document.



We are particularly concerned about the setting of benchmarks for environmental, public health and community actions. As we have consistently stated, there are very few examples of ports and other sectors of the goods movement system that have undertaken significant measures to control impacts. For example, we have heard time and again at the IWG and Working Group committee meetings of the refusal by companies, such as a railroad company with a railyard in Mira Loma, to undertake measures to reduce impacts to the community as simple as shutting a single gate at the railyard and moving the gate's location to another street where it would not seriously impact school children.

Accordingly, there are simply no *existing* examples capable of serving as "benchmarks" to which others should aspire. In addition, as we have also consistently stated, we need innovative solutions to our growing environmental, public health and community crisis; as such, the idea of benchmarking as described in the draft framework simply does not fit this situation. Again, this 21<sup>st</sup> century problem need new solutions—not those of the last century.

Instead, we propose that this task force set specific emissions and public health targets by which we can measure progress. One benchmark is certainly the Governor's goal of 50% reduction in air pollution by 2010. Concurrently, a benchmark for infrastructure investment in the goods movement system could be a 50% reduction of emissions system wide.

## **V. Preliminary Action Recommendations**

We once again reiterate our comments above relative to the preliminary recommendations. In particular, we reiterate that many, if not most, of the listed infrastructure projects are extremely controversial and have still not undergone the required environmental review. As a result, we do not and cannot support the list. In addition, as we've stated above, this list should not be described as the "recommendations" of anyone, since the task force has not discussed the listed projects in relation to the principles and criteria of the task force.

In addition, we want to raise an issue that came up around the Governor's state of the state address. There were several news reports about the desire of the Administration to "streamline" or shortcut environmental review in order to get these projects constructed as soon as possible. On our pre-call, Secretary McPeak stated that the Administration is looking to internally streamline its review of the projects. For the record, we believe it is a violation of both state and federal law for the Administration to shortcut the environmental review for these projects in any way. In addition, it would be entirely inconsistent with the Governor's repeated pledges that he is as concerned about the environment and public health as economic growth. Environmental review should never be considered a roadblock to expansion. The very purpose of CEQA is to ensure that decision makers (and the public) are fully informed about the consequences of their actions and incorporate environmental thinking into their decision making. The Governor has made it clear that this is his intention; we assume the Administration will not take any steps to undermine this vital process.

**VI. The Section on Funding is Completely Devoid of Any Mention of Funding for Environmental, Public Health and Community Actions.**

We are concerned by the absolute lack of any mention in the entire “funding” section of the importance of funding, or sources of funding for, environmental, public health and community actions. As such, it is unclear what purpose is served by this section. As it now reads, the section is not consistent with the often repeated mantra of “simultaneous and continuous” improvements. It does not appear to consider environmental and community improvements at the same level as economic development.

We repeat our “general comment” IV above about the need to include the costs of mitigation in the total cost of each infrastructure project and to fund these costs together. In addition, many of the funding sources listed in this section, including but not limited to container and other user fees, should be identified as sources of funding for environmental, public health and community actions, as well as for infrastructure projects.

*Recommendation: The funding section needs to include means to fund environmental mitigation. In addition, this section needs to mention that environmental and community impact mitigation must be incorporated into the overall cost for funding projects.*

**VII. It Needs to be Made Clearer How Other Critical Issues, Such as Innovative Technologies and Land Use Decisions, Have Been or Will be Incorporated Into the Overall Plan.**

There are several excellent ideas on the innovative technologies list that could significantly increase efficiency, while at the same time decreasing environmental, public health and community impacts. This work group and the Administration should better understand these options so that it can provide stronger recommendations. There appear to be great opportunities to direct funding toward alternatives that spur a segment-wide or even system-wide shift toward operations and technologies that have reduced impacts—or even that greatly reduce the need for expansion. Unfortunately, this important section is treated as a mere footnote to the plan, with no indication of how these concepts will be incorporated into the larger plan or weighed against current freeway and railyard expansion proposals. We strongly urge you to pause the process and focus on many of these solutions in greater detail.

Similarly, the section on land use decisions is a vital component of how California should plan for future expansion in goods movement. Yet, this section is likewise confined to footnote status. It is not at all clear how these important concepts will be integrated into the larger plan, as they must.

*Recommendation: The next integrating work group meeting should include a discussion of how innovative technologies and land use decisions fit into the framework. In*

Secretaries McPeak and Lloyd

January 10, 2006

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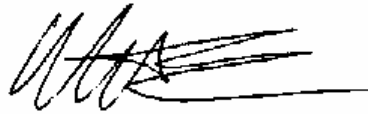
*addition, Cal/EPA and BT&H should pause this process to further research and incorporate these topics into the framework.*

Thank you for the opportunity to submit these comments.

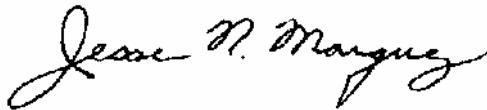
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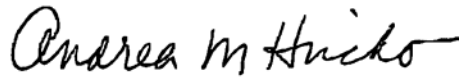
Julie Masters  
Senior Attorney  
Natural Resources Defense Council



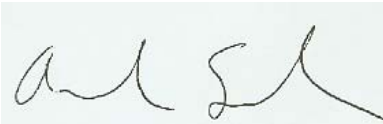
Martin Schlageter  
Campaign and Advocacy Director  
Coalition For Clean Air



Jesse Marquez  
Executive Director  
Coalition for a Safe Environment



Andrea Hricko, Director  
Community Outreach and Education Program  
Southern California Environmental Health Sciences Center  
Keck School of Medicine, University of Southern California



Andrea Samulon  
Research Associate  
Pacific Institute



Margaret Gordon  
Co-Chair  
West Oakland Environmental Indicators Project



Noel Park  
San Pedro and Peninsula  
Homeowner's Coalition

Cc: Cindy Tuck, Assistant Secretary for Policy, Cal/EPA

Enclosures

December 14, 2005

***Via Electronic Mail***

Cindy Tuck  
Assistant Secretary for Policy  
California Environmental Protection Agency  
1001 "I" Street  
Sacramento, CA 95814

Dear Ms. Tuck:

Thank you for this opportunity to provide comments on Draft 4 of the Goods movement action plan principles. We were pleased to see that some of our comments, submitted on November 10, 2005, were incorporated into this draft. However, we are concerned that many of our key principles, which we believe must guide this process in order to give effect to the Governor's goals of protecting the environment, public health, and communities, were not incorporated. We reiterate those comments, and our concerns regarding the omission of those comments, below.

As you know, trust was a significant issue discussed at the last meeting of the Integrating Committee. It is very difficult for the environmental and community representatives of the Committee to trust that our substantive proposals for the goods movement action plan will be incorporated, if even our principles are not.

**[AS WE PREVIOUSLY COMMENTED, THE FOLLOWING SHOULD  
REPLACE THE FIRST PRINCIPLE]**

**Principle 1:**

Comprehensive protection from negative public health and environmental impacts must be fully integrated and simultaneously funded and implemented with any future infrastructure expansion.

- Infrastructure projects must not be implemented without a mitigation plan that fully offsets the public health and community impacts from the proposed expansion of goods movement infrastructure.
- A comprehensive mitigation plan to reduce pollution from the goods movement system must be binding, measurable, follow specific timelines and satisfy the California Environmental Quality Act.
- Similarly, the public health, community and environmental impacts from existing goods movement activities (including at ports, along rail lines and at rail facilities, in communities adjacent to roads and freeways with high big-rig truck volumes, and at distribution centers) must be significantly reduced from existing levels to ensure protection of public health.

- The State's economy can benefit from the efficient, safe delivery of goods to and from the ports and borders and equally depends on ensuring that the movement of goods does not harm public health, the environment nor the community.
- The funding of community, environmental, and public health improvement and mitigation projects must also occur on a simultaneous basis with any future infrastructure expansion projects. In particular, these important costs cannot be externalized. Nor can the state fund infrastructure expansion projects from one source and then look for separate funding sources to offset that project's impacts. Rather, the state must consider the cost of a project and the cost of eliminating the public health, environmental and community impacts from that project as a single cost, and it must seek funding for that single cost from [the same funding source](#).
- Comments: This would give much needed substance to the integrating committee's repeated mantra of "simultaneous and continuous" improvement, substance which is not made clear in the existing first principle. In addition, this makes clear two very important additional principles: (1) that impacts must be significantly reduced from *existing* levels; this ensures that the state will not just adopt measures to partially offset *additional* pollution and other impacts as expansion occurs, but rather, will reduce impacts to acceptable levels and (2) that the public health, environmental and community impacts of goods movement cannot be externalized.

**Principle 4:**

Require the most innovative [technologically feasible](#) technologies [existing anywhere in the world to reduce impacts](#) when modifying or expanding California's goods movement system.

- Comments: We appreciate your adding this principle from our last round of comments. However, with the changes that were made by the agencies, this principle has lost its central meaning. It is important that the best technologies be *required*, or we believe (based on experience) that they will not be used. In addition, the technologies required cannot be limited to those that are "commercially proven." Unfortunately, we are dealing with an industry that has historically remained unregulated and that has not chosen to adopt mitigation on its own. As a result many of the most advanced technologies may yet to be "commercially proven," as opposed to technologically proven. For example, cold-ironing had never been used on container vessels before its use by China Shipping. Yet that technology is tremendously successful and reduces significant pollution from that terminal every year. Maglev is another promising technology that has not been "commercially proven," because the rail industry and others have been unwilling to make decisions based on environmental factors.

**Principle 5:**

- **We request that this newly-added principle be *deleted*.** Given the tremendous impacts of the goods movement system and the goal of tripling that system, it is imperative that we look to new technologies that *decrease*, rather than increase, our reliance on foreign fuels. Such measures as increases in efficiencies that reduce the need for truck trips, idling, and the use of other cargo-handling equipment, as well as increased reliance on electrification, [alternative fuels](#) and other clean technologies should be encouraged. To have the goal to “maintain adequate infrastructure” for fuels inevitably would include expanding that infrastructure. It is our position that this is not an appropriate *guiding principle* for the goods movement action plan.

**Principle 6:**

- [To the extent possible, develop and apply performance metrics for both infrastructure and public health and environmental/community improvement actions keeping in mind that not all public health improvements can be quantitatively defined.](#)

**Principle 9:**

- We repeat our request to add the following to the explanation of this principle: “Of equal importance, projects should be ranked in their potential to improve public health, environment, and the community. Projects that have a high rate of return on both community benefits and in improving the goods movement system are the projects that should be the focus of investment. Infrastructure projects must be evaluated to ensure that they do not create significant harm to public health, the community or the environment and favor those projects that cause less harm. Those that are judged to create significant future harm regionally or locally (due to communities being in close proximity to goods movement activities) must be rejected or revised to protect public health.” We believe that the need for this is self-explanatory.

**Principle 10:**

- We repeat our request to remove the phrase “and may also reduce emissions” from the sentence that reads “Primary examples include goods movement actions that can open bottlenecks and increase throughput for an entire transportation corridor or actions that relieve congestion and may also reduce emissions.” As we have repeatedly stated, we do not believe (and it has not been proven) that [projects based on congestion relief](#) can result in a long term *reduction* in emissions. As such, we believe it is wholly inappropriate to include any statement to this effect (even the more “toned-down” version in the latest draft) as a guiding principle for the goods movement action plan.

12/14/05

**Principle 11:**

- First, a new explanatory sentence was added to this draft to which we strongly object. Specifically, the principle now explains: “Effort should be made to mitigate the public health/environmental and community impacts at the least cost (e.g., some strategies may be more cost-effective than other strategies.)” We are opposed to a plan that will include cost effectiveness as a means to evaluate and discard mitigation measures *as a guiding principle*. As we have repeatedly stated, and as more fully discussed above, because this industry has long remained unregulated, we do not have the luxury to pick and choose among mitigation strategies on the basis that one might be more cost effective than another. Rather, the agencies involved in this process must solely evaluate mitigation on technological feasibility. In particular, measures that might eliminate pollution at the source altogether, such as cold-ironing or maglev, will inevitably be more expensive than “band aid” fixes, such as the retrofit of existing equipment. Measures should not be eliminated because they are less cost-effective than other measures that might not be as effective in curbing pollution from goods movement sources. At the very least, this cannot be part of our guiding principles.
- Second, we note that the agencies did not incorporate the following explanatory comment we made with regard to this principle on November 10: “In addition, we must significantly reduce existing impacts and health risks at existing goods movement facilities (at ports, at railyards and along rail lines in communities adjacent to high truck volume freeways, and at distribution centers) on a priority basis.” As discussed above, this plan cannot consist solely of “band aid” fixes to growth, and must instead have a comprehensive plan to *reduce impacts to acceptable levels*. This must be a guiding principle of the work we are doing.

**Principle 14:**

- We reiterate that we strongly object to this principle. Rushing such a complex process of planning for California’s future is not compatible with successful implementation of the plan.

**Principle 21:**

- We appreciate that the agencies have attempted to incorporate a new principle on environmental justice, as we requested. However, this principle does not incorporate the substance of what we asked for. We reiterate our request to instead include the following principle: “Cal/EPA should ensure that the principles of Environmental Justice (EJ) are integrated into all aspects of goods movement infrastructure expansion planning, that disproportionate impacts from goods movement are identified and reduced, that there is meaningful public participation in all goods movement decision making processes, that cumulative impacts are analyzed and reduced when a new project is being developed or an existing facility/project is being expanded in any heavily impacted community, and that EJ criteria are considered in project siting.”

Comments on Draft 4

12/14/05

Sincerely,

Julie Masters

Senior Attorney

Natural Resources Defense Council

Martin Schlageter

Campaign and Advocacy Director

Coalition for Clean Air

Andrea M. Hricko

Director, Community Outreach and Education Program

So. California Environmental Health Sciences Center

Keck School of Medicine, USC

Noel Park

San Pedro and Peninsula

Homeowner's Coalition



	Immediate	Short Term	Mid Term	Long Term
<b>Mitigation of Impacts from Ships</b>				
<b>Regulatory Measures (Including Port Rules)/Ships</b>				
(1) Cold Ironing--At a minimum, frequent callers should be required to cold iron as follows.				
-Container and Reefer	By 2007, 25% (of frequent callers as defined by NNI Report) participation rate.	By 2010, 50% (of frequent callers as defined by NNI Report) participation rate.	By 2015, 100% (of frequent callers as defined by NNI Report) participation rate.	
-Tanker	By 2007, 25% (of frequent callers as defined by NNI Report) participation rate.	By 2010, 50% (of frequent callers as defined by NNI Report) participation rate.	By 2015, 100% (of frequent callers as defined by NNI Report) participation rate.	
-Cruise	By 2007, 50% (of frequent callers as defined by NNI Report) participation rate.	By 2010, 100% (of frequent callers as defined by NNI Report) participation rate.		
-Other	By 2007, 25% (of frequent callers as defined by NNI Report) participation rate.	By 2010, 50% (of frequent callers as defined by NNI Report) participation rate.	By 2015, 100% (of frequent callers as defined by NNI Report) participation rate.	
A schedule should must be developed to require 70-80% of <i>all</i> ships--both frequent and non-frequent--at every terminal to cold-iron by 2015, as exemplified by the China Shipping terminal and Berths 206-209 at the POLA				
(2) Auxiliary Engine Reductions for Frequent Callers	By 2006, regulation adopted by the Air Resources Board.		By 2010, frequent callers will reduce Nox and PM pollution by 50% of the requirements in the ARB auxiliary engine rule.	
(3) Cleaner Fuels for Ship Auxiliary Engines	By 2005, adopt a regulation that requires cleaner fuels to be used in auxiliary engines within 23 nautical miles of the California coast.			
(4) Creation of a Sulfur Emissions Control Area (SECA)--1.5% sulfur content		By 2010, a SECA should be established for all California coastal areas.		
(5) Rerouting of the cleanest ships to California Ports				
-Container and Cruise Ships	50% participation by 2007.	75% participation by 2010	100% participation by 2012.	

	Immediate	Short Term	Mid Term	Long Term
-Non-container and non-cruise terminals		50% participation by 2010; 75% participation rate by 2012.	100% participation rate by 2015.	
(6) Low Emission Main Propulsion Engines ("Blue Sky Series")	Funded Demonstration Projects for SCR technology: Plan in place for demonstration project by 2007.			50% participation of frequent callers by 2020; 100% participation from frequent and infrequent callers by 2025.
<b>Voluntary Measures/Ships</b>				
(7) Main Engine Fuel Improvement Program	By 2006, 15% participation rate in program that uses 1.5% fuels in their main propulsion engines; By 2007, 25% participation rate using 1.5% fuels; By 2008, 50% participation rate.	By 2010, 100% participation rate.		
(8) Expanded Main Engine Fuel Improvement Program	By 2008, 50% participation in program that requires .2% or lower sulfur fuels in main propulsion engines.	By 2010, 90% participation in .2% program.		
(9) Auxiliary Fuel Improvement Program	By 2006, 25% participation rate in program that funds the incremental cost of using .2 ppm or lower sulfur content; By 2007, 75% participation in .2 ppm or lower sulfur content program; By 2008, 100% participation in .2ppm or lower fuel. After 2008, switch to expanded program in row below.			
(10) Expanded Auxiliary Fuel Improvement Program		By 2008, shift the fuel program to using .1 ppm or lower sulfur content fuel--achieve 25% participation at .1 ppm level; By 2009, achieve 75% participation at .1ppm or lower sulfur content fuel.	By 2010, achieve 100% participation with use of .1ppm or lower sulfur fuels.	

	Immediate	Short Term	Mid Term	Long Term
(11) Retrofit/Repower Requirement for Infrequent Callers (2-4 times per year)		By 2010, 50% participation in a program requiring hotelling emissions from nonfrequent callers to be reduced by 50%.	By 2015, 100% participation in this program.	
<b>Mitigation of Impacts from Harbor Craft (HC)</b>				
<b>Regulatory Measures (Including Port Rules)/HC</b>				
(1) New Engine Standards for Category 1 and 2 Marine Engines	By 2006, push for adoption of standards for new marine diesel engines with per cylinder displacement below 30 liters.	By 2011, standards applicable to new category 1 and 2 marine engines.		
(2) In-Use Harbor Craft Emission Reduction Measure/Airborne Toxic Control Measure (ATCM)	By 2006, adopt regulation that would reduce emissions from harbor craft.	By 2008, regulation in place requiring reductions of "in-use" harbor craft engines.		
(3) Emulsified Fuels	By 2006, 80% of Harbor Craft using emulsified fuels (except for assist tugs and line-haul tugs); By 2006, demonstration project on the use of emulsified fuels in assist tugs--and if operationally feasible, by 2008, 80% participation rate; By 2008, 80% participation rate in the use of emulsified fuels for line-haul tugs.	By 2008, 80% of Harbor Craft including line haul tugs using emulsified diesel.		
(4) AMP-Ready Staging Areas	By 2008, 15% of berths equipped with staging areas; By 2009, 25% of berths equipped with staging areas.	By 2010, 40% of berths equipped with staging areas; By 2011, 50% of berths equipped with staging areas; By 2012, 60% of berths equipped with staging areas; By 2013, 75% of berths equipped with staging areas; By 2014, 85% of the berths equipped with staging areas.	By 2015, 100% of the berths equipped with staging areas.	
<b>Voluntary Measures/HC</b>				

	Immediate	Short Term	Mid Term	Long Term
(5) Early Implementation of ULSD	By 2006, have program in place for early implementation of ULSD--program will end once statewide fuel rule takes effect.			
(6) Repower Existing Harbor Craft	By 2006, repower 20% of harbor craft; By 2007, repower 40% of harbor craft; By 2008, repower 60% of harbor craft; By 2009, repower 80% of harbor craft.	By 2010, repower 100% of harbor craft.		
(7) Retrofit Existing Harbor Craft	By 2007, program in place to retrofit existing harbor craft with technologies like DPF, SCR, DOCs, and DPFs in combination with lean Nox catalysts.			
<b>Mitigation of Impacts from Cargo Handling Equipment (CHE)</b>				
<b>Regulatory Measures (Including Port Rules)/CHE</b>				
(1) Alternative Fuel Yard Tractors	By 2006, adopt a regulation requiring all new leases to require use of alternative fuel yard tractors unless operationally infeasible.			
(2) Cargo Handling Equipment at Ports and Intermodal Rail Yards	By 2005, ARB should have regulation in place that will require BACT for CHE at ports and intermodal railyards.			
(3) Enhanced CHE Modernization				

	Immediate	Short Term	Mid Term	Long Term
-New Purchases	By 2006, require all new purchases of yard equipment to meet the 2004 on-road engine standards and be equipped with the highest level ARB-verified ECS available.	From 2007-2011, require new purchases to meet the 2007 on-road engine standards (if not feasible, meet the Tier 3 nonroad engine standards) and be equipped with the highest level ARB-verified ECS available; By 2012, require all new purchases to be alternative fuel, or if not feasible, meet Tier 4 nonroad engine standards.		
-Replacement and Retrofits of Existing CHE				
-Pre-1996 (unregulated CHE)	By 2007, 50% must meet the 2007 on-road engine standard or if that option is not feasible, meet Tier 3 nonroad standard and be equipped with the highest level ARB-verified ECS available.	By 2010, 100% of pre-1996 CHE must comply with these requirements.		
-Model Year 1996-2002 CHE	By 2007, 25% must meet the 2007 on-road engine standard or if that option is not feasible, meet Tier 3 nonroad standards and be equipped with the highest level ARB-verified ECS available.	By 2010, 100% of model year 1996-2002 CHE must meet 2007 on-road engine standard or if that option is not feasible, meet Tier 4 nonroad standards.	By 2014, 100% of model year 1996-2002, CHE must meet the 2007 on-road engine standard or if not feasible meet Tier 4 nonroad standards.	
-Model Year 2003-2005 CHE	By 2007, 100% of model year 2003-2005 CHE must be equipped with highest level of ARB-verified ECS, or at the earliest date an ECS becomes available.		By 2014, 100% of model year 2003-2005 CHE must meet the 2007 on-road standard or if that is not feasible, meet Tier 4 nonroad standards.	
<b>Voluntary Measures/CHE</b>				

	Immediate	Short Term	Mid Term	Long Term
(4) Yard Tractor Modernization	In 2006, replace all 1995 and older (unregulated yard tractors); Also in 2006, replace 50% of all Tier 1 (1996-2002 models) yard tractors with engines that meet or are below the 2007 on-road engine standards; By 2007, replace 100% of all Tier 1 engines with engines that meet or are below 2007 levels.	By 2008, replace all Tier 2 (2003-2004) yard tractors.	By 2011, replace all yard tractors originally procured in 2005; By 2012, replace all yard tractors originally procured in 2006; By 2013, replace all yard tractors procured in 2007; By 2014, replace all yard tractors procured in 2008.	
(5) Early Implementation of ULSD for CHE (Other than Yard Tractors)	By 2006, 100% conversion of ports' fleet to ULSD--measure ends when statewide fuel rule takes effect.			
(6) Emulsified Fuels	By 2006, set in place a program for the use of emulsified fuels in yard equipment at California ports.			
<b>Mitigation of Impacts from Railroad Operations</b>				
<b>Regulatory Measures (Including Port Rules)/Rail Operations</b>				
(1) Tier 3 Engine Standards for New and Remanufactured Locomotives and Locomotive Engines	By 2007, regulation created establishing Tier 3 Engine Standards.	By 2011, application of regulation commences.		
(2) ARB Diesel Fuel for Class 1 Railroad Locomotives	By 2007, 100% of Class 1 locomotives serving the Goods Movement system using ARB diesel fuel.			
(3) Ultra-Low Emission Switcher and Line Haul Locomotives				
-Switchers	By 2008, 20% participation rate for switchers that are 3.0 g/bhp-hr Nox and .0225 g/bhp-hr PM; By 2009, 40% participation rate	By 2010, 60% participation rate; By 2011, 80% participation rate; By 2012, 100% participation rate.		

	Immediate	Short Term	Mid Term	Long Term
-Line haul locomotives		By 2010, 50% participation rate for line hauls that are 3.0 g/bhp-hr Nox and .035 g/bhp-hr PM; By 2012, 100% participation rate.		
(4) Idling Controls for Switcher and Line Haul Locomotives	By 2006, 99% of all locomotives operating in California should be equipped with tamper proof idling control devices on all switcher and line haul locomotives.			
(5) Efficiency Improvements on In-Use Class 1 Rail Equipment	By 2006, regulation in place to ensure a 1-2% per year emission reduction improvement, averaged over three consecutive years.			
(6) Investigate the feasibility of and adopt regulation requiring use of maglev technology, if technologically feasible, for all new rail expansions and projects.				
(7) Electrification of the Alameda Corridor	By 2007, finalize plan for electrification of the Alameda Corridor.		By 2015, complete electrification of the Alameda Corridor.	
<b>Voluntary Measures/Rail Operations</b>				
(7) Switcher Locomotive Modernization	By 2008, switch all switch engine fleets with Tier 2 railroad locomotive engines, equipped with idling controls.			
(8) Ultra-Low Emission Switcher Locomotives	By 2007, 25% of all switcher locomotives should be ultra-low emission; By 2008, 50% of all switcher locomotives should be ultra-low emission; By 2009, 75% of all switchers should be ultra-low emission	By 2010, 100% of switcher locomotives should be ultra-low emission switchers.		
<b>Mitigation of Impacts from Heavy Duty Vehicles (HDV)</b>				
<b>Regulatory Measures (Including Port Rules)/HDVs</b>				

	Immediate	Short Term	Mid Term	Long Term
(1) California Heavy-Duty Diesel Vehicle Standards and Fleet Modernization for Mexican Trucks	By 2006, ARB needs to develop protocols to ensure that vehicles entering California meet federal engine standards.			
(2) On-Board Diagnostics for Heavy-Duty Trucks	By 2006, regulation in place by ARB requiring OBD systems for all heavy-duty trucks operating in California.	By 2010, require OBD systems on all heavy duty trucks		
(3) Transportation Refrigeration Units	By 2007, Level 2 VDECS should be applicable to TRU generation sets; By 2009, Level 3 VDECS should be applicable to TRU generations sets.			
<b>Voluntary Measures/HDVs</b>				
(4) Truck Replacement Program				
-Existing Trucks Model Years 1986 and Older--Replace with 1998 and newer and install DPF.	By 2006, 50% replaced; By 2007, 100% replaced.			
-Existing Trucks Model Years 1987-1993--Replace with 2004 and newer and install DPF	By 2008, 50% replaced; By 2009, 100% replaced.			
-Existing Trucks Model Years 1994-2003--Replace with 2004 and newer and install DPF	By 2009, 50% replaced.	By 2012, 100% replaced.		
-Existing Trucks Model Years 2004-2006--Replace with 2007 and newer				By 2020, replace 50%; By 2025, replace 100%.
(5) Retrofit Heavy-Duty Diesel Vehicles with Diesel Oxidation Catalysts	By 2006, DOCs installed on trucks entering the truck modernization program.			
(6) Retrofit Heavy-Duty Diesel Vehicles with Diesel Particulate Filters (DPF)--This measure should focus on (1) those trucks not replaced under the truck modernization program and (2) trucks replaced under the truck modernization program prior to June 2006.				
-Model years 1994-2003	By 2006, 30% participation rate; By 2007, 60% participation rate; By 2008, 90% participation rate.			



	Immediate	Short Term	Mid Term	Long Term
-Model years 2004-2006	By 2007, 30% participation rate; By 2008, 60% participation rate; By 2009, 90% participation rate.			
(7) Early ULSD Implementation	By 2006, implement a program for the early implementation of ULSD in order to facilitate the early installation of DPFs.			
(8) Electrified Truck Spaces	By 2006, have system set in place to more robustly utilize electrified truck spaces.			
(9) Statewide Implementation of Software like the Synchronet Software	By 2006, create a program to implement a Synchronet like system for all the ports in California. See <a href="http://www.synchronet.com/index.asp">http://www.synchronet.com/index.asp</a>			
Mitigation of Impacts from Construction Activities				
Regulatory Measures/Construction Activities				
(1) Clean Construction Rule	By 2007, adopt a clean construction rule governing the types of fuel and equipment that should be used in construction of goods movement infrastructure--for example, see New York City Clean Construction Rule.			
(2) Electric Dredges	By 2007, regulation in place requiring to use electric dredges when feasible.			
Voluntary Measures/Construction Activities				